

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DOROTHY TONEY-ACON,)
)
 Plaintiff,)
)
 vs.)
)
 CITY OF UNIVERSITY CITY,)
)
 Defendant.)

Case No. 4:08CV1229 RWS

MEMORANDUM AND ORDER

This matter is before me on a variety of motions. Because plaintiff has now filed her proposed amended complaint in support of her motion for leave to amend, the motion to amend the complaint will be granted.

Plaintiff has filed a second motion for appointment of counsel. As I explained in my prior order denying plaintiff's first motion for appointment of counsel, Title VII provides that a court may appoint counsel to represent a plaintiff under "such circumstance as the court may deem just." 42 U.S.C. § 2000e-5(f)(1). Because a civil litigant has no constitutional or statutory right to court-appointed counsel, the decision whether to make an appointment is within the Court's discretion. See Sours v. Norris, 782 F.2d 106, 107 (8th Cir. 1986) (per curiam). The factors that are relevant to the Court's decision are whether: (1) the plaintiff can afford to hire an attorney; (2) the plaintiff has made a good-faith effort to

retain an attorney, but has been unable to do so; (3) there is some factual basis for the plaintiff's lawsuit; and (4) the nature of the litigation is such that the plaintiff and the Court would benefit from the assistance of counsel. See Slaughter v. Maplewood, 731 F.2d 587, 589 (8th Cir. 1984); Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1005 (8th Cir. 1984).


Because plaintiff has already been granted in forma pauperis status, she meets the first factor and her second motion to proceed in forma pauperis will be denied as moot. Although plaintiff has now explained her efforts to secure counsel, at this time the Court continues to believe that plaintiff's allegations do not warrant the appointment of counsel. Finally, the Court concludes that the assistance of counsel is unnecessary for the benefit of plaintiff and the Court at this time. For these reasons, the second motion for appointment of counsel will be denied without prejudice.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to file amended complaint [#16] is granted, and plaintiff's amended complaint [#26] is deemed filed as of this date.

IT IS FURTHER ORDERED that plaintiff's motion for leave to proceed in forma pauperis [#29] is denied as moot.

IT IS FURTHER ORDERED that plaintiff's motion to appoint counsel
[#28] is denied without prejudice.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of December, 2008.